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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Assignee's Docket No.:   8580   )
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Group Art Unit: 3691   )
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Serial No.:   09/826,678   )
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Examiner: Dan Kesack   )
)
Filing Date: April 5, 2001   )
)
Title: Transaction Terminal   )
         Interface   )
)
_____)

CERTIFICATE OF MAILING

I certify that this document is addressed to Mail Stop Petition, Commissioner of Patents, PO Box 1450, Alexandria, VA 22313-1450, and will be deposited with the U.S. Postal Service, first class postage prepaid, on March 10, 2009.

Gregory A. Welte

PETITION

The undersigned attorney, Gregory A. Welte, states as follows.

1. He mailed a timely Amendment in this application on August 21, 2008.

2. In response, the PTO mailed a Notice of Non-Compliant Amendment, which objected to printed highlighting in claim 1.

3. The undersigned attorney mailed a Corrected Amendment in timely manner, which removed the highlighting.

4. In response to the Corrected Amendment, the PTO mailed a notice of Failure to Acceptably Respond to Notice of Non-Compliant Amendment ("Notice of Failure" herein). The Notice of Failure objected to the absence of a reference to cancelled claim

26 in the listing of claims. This Notice of Failure refused to extend the time for response, thus requiring the Assignee to pay for an extension of two months.

5. On March 10, 2009, the undersigned attorney mailed a Second Corrected Amendment, which added a notation regarding cancelled claim 26, and which included a Petition for Extension of Time with a fee for a two-month extension.

6. To repeat, the following events occurred:

FIRST - Applicant filed Amendment.

SECOND - PTO sent Notice of Non-Compliant Amendment, which objected to highlighting in claim 1.

THIRD - Applicant filed Corrected Amendment, which eliminated highlighting.

FOURTH - PTO sent Notice of Failure, which objected to absence of reference to cancelled claim 26.

FIFTH - Applicant filed Second Corrected Amendment, which included a reference to claim 26, and which included a petition and fee for extension of time of two months.

THEREFORE, it is requested that the time for responding to the initial Notice of Non-Compliant Amendment be re-set so that Applicant can respond without petitioning for extensions of time. The reasons include the following.

FIRST REASON. The Notice of Failure asserts that the Corrected Amendment fails to fully respond to the earlier Notice of Non-Compliant Amendment.

That is false. The only defect alleged in the Notice of Non-Compliant Amendment is the highlighting in claim 1. Nothing else. That highlighting was corrected in the Corrected Amendment.

To repeat: the Corrected Amendment fully responded to the Notice of Non-Compliant Amendment.

SECOND REASON. The PTO, not Applicant, required an extra extension of time. Applicant mailed the Corrected Amendment by the deadline required by the Notice of Non-Compliant Amendment (January 10, 2009).

Then, the PTO mailed the Notice of Failure on February 20, 2009, more than one month after Applicant's Corrected Amendment. The timing of that mailing required a two-month extension. Had the PTO been timely, only a one-month extension would have been needed.

Further, had the PTO correctly recognized that Applicant's Corrected Amendment was fully responsive to the First Notice, the PTO would have re-set the response time, thus requiring no extensions of time.

CONCLUSION

Applicant fully responded to the First Notice.

It is unreasonable to require Applicant to pay an extension fee for delays beyond his control.

Applicant requests that the period for reply to the Notice of Non-Compliant Amendment be extended to include Applicant's response to the Notice of Failure.

Applicant also requests that the two-month extension fee submitted with his Second Corrected Amendment be refunded to Deposit Account 14 - 225, NCR Corporation.

Respectfully submitted,

Gregory W. Welte
Reg. No. 30,434

NCR Corporation
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March 10, 2009
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